

TURTLE MOUNTAIN BAND OF PEMBINA CHIPPEWA
INDIANS.

JANUARY 9, 1897.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FISCHER, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 9921.]

The Committee on Indian Affairs have had this bill under advisement for many months and have concluded that the Turtle Mountain Band of Pembina Chippewa Indians are entitled to some relief. These Indians have been seeking an adjustment of their claims against the Government for many years, but have not met with any success up to the present day; and while awaiting settlement they have suffered by reason of their inability to sustain themselves properly. The Board of Visitors, appointed under the fourth article of the treaty of 1863, in their report for 1871, say:

The condition of the Pembina Indians, we regret to report, is deplorable and almost hopeless. They are extremely poor, and owing to the scarcity of game their means of subsistence are scanty and precarious. The Turtle Mountains have long been their hunting grounds and have never been ceded to the United States. They regard these mountains, therefore, as their own, and express a strong desire to have a reservation definitely located for them in that region.

It appears that this band of Indians, numbering, in 1892, 1,759 souls, have always been peaceable and friendly to the whites, and have on many occasions assisted this Government in its wars with unfriendly tribes. They have sought relief in vain, while Indians who have been unfriendly and have caused great loss in both life and property in frequent outbreaks have been much better treated by us. While we have paid others for their lands we have taken the property of these Indians and have never compensated them for it.

This matter has been before Congress for many years, and has received some attention. By a provision of the Indian appropriation bill of 1892 a Commission was appointed to enter into negotiations with these Indians, with a view to a proper adjustment of the affair. As a result of these negotiations, a treaty made, entered into, and signed by said Commissioners and the Indians on the 22d day of October, 1892, seems to furnish the only solution of the question. The Commission, in making its report, says:

The Commission is well aware that the agreement secured does not meet the exact object for which the Commission was appointed, as expressed by the act of Congress. This law contemplates the release of claim to all lands in North Dakota and the removal of the Indians to some other place.

Neither is the agreement such a one as the Commission desired to make. The matter, however, resolved itself to this: Either to accept these terms or nothing at all. And in view of the complete failure of former attempts to secure an agreement it

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was deemed best, for many reasons, to accept this contract, especially in view of the fact that Congress would have to act on it before it became binding. The Commission, however, deem it but just to state, after an examination of the whole matter and comparisons with other treaties, that a less liberal agreement on its part would have been unjust to the Indians.

Your committee, relying upon the report of the Commission, which has never been controverted, believe the title set up by the Indians to be good. The Commission reports upon this point as follows:

This leaves, as near as this Commission can ascertain, a tract of land of between 8,000,000 and 10,000,000 acres, lying north and west of Devils Lake, the Indian title to which has never been ceded to the Government, and which is claimed by the Chippewas and their right recognized by neighboring tribes. There are many other records recognizing both this boundary and the Chippewa claim, to which we need not here refer.

This Commission is therefore forced to report that the Turtle Mountain Band of Chippewa Indians have as valid an original Indian title to this entire tract of land as any Indian tribe had to any tract. The band insists on this claim, and asks the Commission to show that it is not both valid and just; and in support of their claim that the amount agreed upon is but a meager sum as compared with what the Government has paid for the relinquishment of the Indian title to other tracts, they argue that the Government is, in fact, paying but 10 cents per acre for land, a large portion of which is classed among the best agricultural land in the State, while on the other hand the Government has lately contracted to pay the Arickarees, Mandans, and Gros Ventres bands, whose combined number is only 1,135, the sum of \$800,000 for 1,600,000 acres of land, which, on account of the limited rainfall, is almost worthless; that the Government pays the Fort Totten Sioux \$2.50 per acre for land which at the least is no better than the Turtle Mountain country, and also pays the Wahpeton and Sisseton Band of Sioux \$2.50 per acre for land ceded by them.

This treaty or agreement has never been ratified. President Harrison transmitted it to Congress during the Fifty-second Congress for its approval, but nothing was done with it. The President's message, accompanying a report of the Acting Secretary of the Interior, is as follows:

Message from the President of the United States, transmitting communication from the Secretary of the Interior, accompanied by an agreement between the Turtle Mountain Indians and the Commission appointed under the provisions of the Indian appropriation act of July 13, 1892.

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, a communication from the Secretary of the Interior, dated 4th instant, accompanied by an agreement concluded by and between the Turtle Mountain Indians and the Commission appointed under the provisions of the Indian appropriation act of July 13, 1892, to negotiate with the Turtle Mountain Band of Chippewa Indians, in North Dakota, for the cession and relinquishment to the United States of whatever right or interest they have in and to any and all land in said State to which they claim title, and for their removal to and settlement upon lands to be hereafter selected and determined upon by the Secretary of the Interior, upon the recommendation of the proposed commissioners, subject to the approval of Congress.

BENJ. HARRISON.

EXECUTIVE MANSION, February 6, 1893.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1893.

THE PRESIDENT:

I have the honor to submit herewith a report of the Turtle Mountain Indian Commission, dated December 3, 1892, and accompanying agreement made by them with the Turtle Mountain Indians on October 22 last.

This report and agreement have been examined by the Commissioner of Indian Affairs and the assistant attorney-general for this Department, as shown by their reports herewith, and a draft of a bill to ratify the said agreement is herewith presented.

I have the honor to submit, also, a letter of the 23d ultimo, from Hon. H. C. Hansbrough, relative to this matter.

While the agreement is not in exact accordance with the act of Congress providing for the Commission and defining its duties, it is forwarded for the favorable action of Congress as the best available.

I have the honor to be, very respectfully, your obedient servant,

GEO. CHANDLER, *Acting Secretary.*

The present Commissioner of Indian Affairs, in his report for the year 1896, at page 96, again brings the matter to the attention of Congress for action. He says:

Nothing has been accomplished during the year in the way of settling the Turtle Mountain question. The agreement concluded October 22, 1892, with the Pembina Chippewas, which it was thought would bring their affairs to a satisfactory termination, has not yet been ratified by Congress, though drafts of bills have several times been submitted, with recommendation that the agreement be ratified. One was submitted December 9, 1895, with the statement that these Indians were in a continued state of disquiet and unrest, as the result of the failure to ratify their agreement. The Indians strongly favor the ratification, and I know of no reason for not ratifying it, except that it is opposed by a certain Canadian half-breed faction which, instigated by outside parties, has always been more or less of a disturbing element on this reservation.

A number of Pembinas were tried and sent to jail for the alleged offense of cutting timber on Government land in the Turtle Mountain district. The Indians claimed, however, that the cutting was done on land which they have always claimed as their own; that they have never ceded this land to the Government except by the unratified agreement of 1892, and that the cutting and sale was done the winter before, to enable them to procure food. The ratification of the agreement with these Indians can not be too strongly urged.

The attorney representing these Indians has asked of your committee a favorable report on H. R. 3541, and has petitioned that the treaty hereinbefore set forth be not ratified or confirmed. Your committee is of the opinion that the only proper course to pursue in the premises is to confirm the agreement made between Commissioners and the Indians and to discountenance any attempt to nullify the proceedings heretofore had, which seems to have met with the approval of the various adult male members of the tribe. So far as your committee can see, the adoption of H. R. 3541 would result in the enactment into law of a scheme which would complicate the condition of affairs instead of aiding them, and would give to the Indians double the amount of consideration which they have heretofore agreed in writing to accept, and your committee therefore recommends that a substitute measure, which is herewith submitted, be passed, and that H. R. 3541 be reported adversely.

When this treaty was submitted to Congress for confirmation, as hereinbefore set forth, the opinion of the Attorney-General was called for and received, and your committee beg to make his opinion a portion of this report. It is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, February 2, 1893.

SIR: In accordance with your request, I have examined the draft of a bill, prepared by the Commissioner of Indian Affairs, to ratify the agreement made with the Turtle Mountain Band of Chippewa Indians by the Commission appointed to negotiate with said Indians.

The provision under which said Commission was appointed is to be found in the act of July 13, 1892 (27 Stats., 120-139), and is as follows:

"That the President of the United States is hereby authorized to appoint a commission, to consist of three persons familiar with Indian affairs, not more than two of whom shall be of the same political party, who shall negotiate with the Turtle Mountain Band of Chippewa Indians, in North Dakota, for the cession and relinquishment to the United States of whatever right or interest they may have in and to any

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and all land in said State to which they claim title, and for their removal to and settlement upon lands to be hereafter selected and determined upon by the Secretary of the Interior, upon the recommendation of the proposed commissioners, subject to the approval of Congress. Said commissioners shall also report to the Secretary of the Interior the number of said Chippewa Indians and the number of mixed bloods, if any, who are entitled to consideration by the United States Government; and the sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expense of the proposed negotiations."

It will be seen that this Commission has failed to accomplish the purposes contemplated by the act of Congress authorizing its appointment. One important object sought to be accomplished—that is, the removal of these Indians from the land now occupied by them—is as far if not farther from accomplishment than before any steps were taken in that direction. Indeed, to accept the agreement presented would be to give the Indians the privilege of remaining where they are indefinitely, and thus to perpetuate the difficulties heretofore encountered in dealing with them. Under these circumstances, the agreement does not fulfill the requirements of the act of Congress authorizing the negotiations. The Indian title to the ceded lands has not been investigated by me, as an opinion thereon was not requested, and the act seems to recognize that the Indians have some claim and authorizes its extinguishment.

If, however, it is to be approved, the draft of a bill submitted by the Commissioner of Indian Affairs seems sufficient for that purpose. Article 5 of said agreement, as amended in the draft submitted by the Commissioner of Indian Affairs, is somewhat ambiguous, and in order that there may be no doubt as to the period during which schools are to be maintained, and that the intention of the parties to the agreement may be carried out, I suggest the addition to said article, as amended, of the words "during said period." I would also recommend the addition of a proviso to prevent the application of any of the money paid to these Indians to the payment of claims for Indian depredations, a draft of which proviso I submit herewith.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

THE SECRETARY OF THE INTERIOR.

Your committee desires to call attention to the fact that this opinion was based upon a bill exactly similar in all respects to the substitute measure recommended by your committee, and the suggestions and recommendations of the Attorney-General are embodied in that substitute.